

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DONALD J. FRANTZ,
Plaintiff

v.

MARIO FASULLO, ET AL.,
Defendants

No. 3:13cv2345

(Judge Munley)

ORDER

AND NOW, to wit, this 15th day of November 2016, we have before us for disposition Magistrate Judge Karoline Mehalchick's report and recommendation, which proposes granting the motion to dismiss plaintiff's breach of contract and civil RICO case for failure to prosecute. No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report

and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 81) is **ADOPTED**;
- 2) The defendant's motion to dismiss (Doc. 76) is **GRANTED**;
- 3) The plaintiff's motion for an order to show cause (Doc. 77) is **DENIED**;
- 4) The plaintiff's complaint is **DISMISSED**; and
- 5) The Clerk of Court is directed to close this case.

BY THE COURT:

s/ James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court